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TIMOTHY N TROP TROP PRUNER HU & MILES P C 8554 KATY FREEWAY SUITE 100 HOUSTON, TX 77024			NGUYEN, THU HA T	
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Paper No. 20

Application Number: 09/364,085

Filing Date: July 30, 1999

Appellant(s): ELZUR, URI

Fred G. Pruner, Jr.  
For Appellant

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**EXAMINER'S ANSWER**

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This is in response to the appeal brief filed July 17, 2003.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is correct.

**(7) *Grouping of Claims***

The rejection of claims 1-8 and 14-19 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

**(8) *ClaimsAppealed***

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) *Prior Art of Record***

6,141,686	JACKOWSKI et al.,	6/23/1998
6,330,602	LAW et al.,	11/7/1997
5,991,299	RADOGNA et al.,	9/11/1997

**(10) *Grounds of Rejection***

The following ground(s) of rejection are applicable to the appealed claims:

**Claims 1, 3-8, 14-15, and 17-19 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Jackowski et al. (hereinafter Jackowski) U.S. Patent No. 6,141,686, in view of Law et al. (hereinafter Law) U.S. Patent No. 6,330,602.**

Referring to claim 1, Jackowski discloses a method for use with a computer system, comprising: storing a table in a memory (Figure 5 Item 60 and Col. 5 lines 7-11, col. 8 lines 59-col. 9 lines 19), the table including entries identifying different packet flows (Col. 4 lines 61-63, col. 8 lines 59-col. 9 lines 19); receiving a packet (Figure 5, col. 7 lines 35-65, col. 8 lines 59-col. 9 lines 34); and using the table to associate the packet with one of the packet flows (Figure 9A and 9B). Jackowski does not explicitly teach the step of storing a table in a memory of a peripheral. However, Law teaches step of storing a table in a memory of a peripheral (figures 4-5, col. 5 lines 19-col. 6 lines 24). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made that Jackowski suggests the process of storing a table in a memory to modify the process of storing a table in a memory of a peripheral by Law. One of ordinary skill in the art would have been motivated to modify Jackowski in view of Law because it would make the data loading faster and increase performance of client and server.

Referring to claim 14, Jackowski discloses a computer system comprising: a system memory; a processor; store a table including entries identifying different packet

flows (Figure 5 Item 60); a first interface adapted to receive a packet (Figure 5); a second interface adapted to communicate with the system memory (Figure 5); and a circuit adapted to: use the table to associate the packet with one of the packet flows (Figure 5 and Col. 9 lines 3-19), and based on the association, interact with the second interface to selectively transfer a portion of the packet to the system memory for processing by the processor (Figure 5). Jackowski does not explicitly teach a peripheral comprising a peripheral memory adapted to store the table. However, Law teaches a peripheral comprising a peripheral memory adapted to store the table figures 4-5, col. 5 lines 19-col. 6 lines 24). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made that Jackowski suggests the process of storing a table in a memory to modify the process of a peripheral memory adapted to store the table by Law. One of ordinary skill in the art would have been motivated to modify Jackowski in view of Law because it would make the data loading faster and increase performance of client and server.

Referring to claim 3, and 17 Jackowski discloses the method of claim 1, and 14 wherein said at least one characteristic comprises: a port number being associated with an application (Col. 5 lines 3-4).

Referring to claim 4, and 18 Jackowski discloses the method of claim 1, 9, 14 wherein said at least one characteristic comprises: a security attribute (Col. 3 lines 34-38).

Referring to claim 5, Jackowski discloses the method of claim 1, further comprising: based on the association, selectively using hardware to process the packet (Abstract and Col. 17 lines 15-20).

Referring to claim 6, Jackowski discloses the method of claim 1, further comprising: based on the association, selectively executing software to process the packet (Figure 10 and Col. 9 lines 3-19).

Referring to claim 7 and 15, Jackowski discloses the method of claim 1 and 14 wherein the peripheral comprises: a network controller (Figure 5 and Col. 8 lines 7-23).

Referring to claim 8 and 19, Jackowski discloses the method of claim 1 and 14 and a high-level application module (Figure 5 Item 32). Jackowski does not explicitly disclose storing the packet in another memory. However, the high level applications as disclosed by Jackowski send and receive information to a network by making calls to Winsock-2 library by calling application programming interfaces (API). It is inherent that any high level application processing of the received packets requires some kind of storage or memory to function. Therefore, it is obvious that high-level application module comprises a memory for information retrieval and for more convenient accessibility.

**Claims 2, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackowski (hereinafter Jackowski) U.S. Patent No. 6,141,686 and Law et al. (hereinafter Law) U.S. Patent No. 6,330,602 in view of Radogna et al. (hereinafter Radogna) U.S. Patent No. 5,991,299.**

Referring to claim 2, and 16, Jackowski discloses the method of claim 1, and 14 where an examiner, coupled to the interceptor, examines the network event intercepted and collects statistical information about the network event (Col. 4 lines 61-64). However, Jackowski and Law do not explicitly disclose a parser that identifies the packet and header characteristics. Radogna discloses a method for translating data link layer and network layer frame headers at higher speed for processing wherein the packet indicates a header and the act of using the table (Figure 2) comprises: parsing the packet to identify at least one characteristic of the packet (Figure 2 Item 46 and Col. 3 lines 23-29 and 50-59); and comparing said at least one characteristic to the entries (Col. 4 lines 4-17). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the collection of statistical network flow and packet information as disclosed by Jackowski and Law to include a Receive Header Processor as disclosed by Radogna because the parser not only collects information but specifically breaks information into manageable parts. A parser may also check to see that all inputs have been provided.

**(11) Response to Argument**

Applicant argues that the references do not teach or suggest storing a table including entries identifying different packet flows and storing such a table in a memory of a peripheral device.

Referring to 103 rejection, Jackowski et al teaches tracking and identifying different packet event flows and storing in a table (see figures 5, 8-9A-B and 12). Law et al teaches storing a table in a memory of peripheral device read as depot (see figures 4-5, col. 5 lines 10-col. 6 lines 24). Taken together, Jackowski et al and Law et al clearly adequate teaching of identifying different packet event flows and storing in a table and storing such a table in a memory of a peripheral device.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Jackowski suggests the process of storing a table in a memory to modify the process of storing a table in a memory of a peripheral by Law. One of ordinary skill in the art would have been motivated to modify Jackowski in view of Law because it would make the data loading faster and increase performance of client and server. Jackowski et al teaches a table stores packet flows (figures 5, 8-9, and 12). Law et al teaches a table stores in the memory of a peripheral device (read as depot) (figures 2-5, col. 5 lines 19-col. 6 lines

24). It would have been obvious to one ordinary skill in the art at the time of the invention was made to have a table that stores packet flows as taught by Jackowski et al to store in the memory of a peripheral device (read as depot) as taught by Law et al in order to enhance the performance of the network communications system.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

  
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ThuHa Nguyen  
September 30, 2003

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